

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Wright Analyst: Gloria McConnell Bill Number: AB 370

Related Bills: _____ Telephone: 845-4336 Amended Date: 06/16/99

Attorney: Patrick Kusiak Sponsor: LA DA

SUBJECT: Child Support Enforcement/Date Amount Due Calculated

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED 06/03/99 STILL APPLIES.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under this bill, whenever a notice is issued by a state (or local) governmental agency to a support obligor, the notice would be required to:

- state the date upon which the amount of the delinquency was calculated;
- notify the obligor that the amount calculated may or may not include interest; and
- notify the obligor of his or her right to request that the local child support agency (county) review the arrears and make an administrative determination of arrears.

However, the above requirement for the notice would not be imposed until the county has instituted one of several specified systems.

Additionally, the state agency would be precluded from suspending enforcement of any arrearage as a result of the obligor's request for an administrative determination unless so notified by the county.

SUMMARY OF AMENDMENT

This amendment would require the notice contain the date the delinquency amount was calculated instead of the date the amount was submitted to the state agency by the county. Additionally, this amendment adds the provisions that would delay implementation of the above notice requirement until the county has instituted one of several specified systems and would preclude a state agency from suspending enforcement of any arrearage as a result of the obligor's request for an administrative determination unless so notified by the county.

Board Position:

| | | |
|-----------------------------|------------------------------|---|
| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department/Legislative Director Date

Johnnie Lou Rosas 7/1/1999

As amended June 3, 1999, the notices would have been limited to those issued by state agencies. The notices would contain the date that the amount of the delinquency was submitted for enforcement, rather than the date upon which the amount of the delinquency was calculated (above item #1) and a statement of the obligor's right to an administrative determination of arrears (above item #3).

As amended March 24, 1999, "notice of support delinquency" is defined as a notice that provides the amount of delinquent support due and payable. In addition, under this amendment, the notice would provide a statement that the amount calculated may, or may not, include accrued interest (above item #2), and would have included the date the amount of the delinquency was calculated.

As introduced February 11, 1999, the bill would not have affected FTB.

FTB did not complete a previous analysis of this bill.

SPECIFIC FINDINGS

Under FTB's existing child support enforcement program, FTB issues a notice to support obligors that includes a specific statement of the amount of the delinquent support due and payable. If the obligor disputes the amount due, the obligor generally is referred to the county District Attorney (DA). However, depending upon the case and circumstances, FTB staff may be able to resolve the matter.

Under this bill, this notice would have to:

- state the date upon which the amount of the delinquency was calculated;
- notify the obligor that the amount calculated may or may not include interest; and
- notify the obligor of his or her right to request that the county review the arrears and make an administrative determination of arrears.

However, the above requirement would not be imposed until the county has instituted one of several specified systems.

Additionally, the state agency would be precluded from suspending enforcement of any arrearage as a result of the obligor's request for an administrative determination unless so notified by the county pursuant to the Welfare and Institutions Code (W&IC).

Implementation Considerations

To implement this bill would require computer programming changes for FTB to be able to include on FTB's notice of support delinquency the date the amount was calculated. Staff anticipates it would need approximately 120 days after enactment of the bill to make and test the programming changes and revise the notice; therefore, the bill could be implemented by January 1, 2000, the effective and operative date of the bill.

Of concern, however, is that under the June 16, 1999, amendments it could be interpreted that when an obligor makes a request for an administrative determination, FTB would be precluded from suspending enforcement unless the county notifies FTB to do so. This interpretation would remove FTB's existing ability to use discretion to voluntarily suspend enforcement when warranted based on the circumstances of the particular case. To remove this concern, the bill could be amended to provide that the FTB would not be required to suspend collection as a result of a request for an administrative determination, unless the county notifies the FTB to do so. FTB's suggested language is attached.

Staff anticipates that for purposes of clarifying for the obligor the amount that is due, FTB also may include a statement on the notice indicating that the amount due as calculated by the county may have been adjusted by FTB to reflect any payments recently received by FTB.

FISCAL IMPACT

Departmental Costs

Staff anticipates to implement this bill would cost the department approximately \$5,000 (one-time programming and testing costs), which undoubtedly would be absorbed in FTB's existing budget. However, as the bill moves through the legislative process, additional costs may be identified.

Collection Estimate

This bill would not affect FTB's collection of child support.

BOARD POSITION

Pending.

Attachment

FTB Suggested Amendment
AB 370 As Amended June 16, 1999

AMENDMENT 1

On page 16, line 29, after "not" insert:

be required to